

REMARKS

This Amendment and Request for Reconsideration is submitted with a Request for Continued Examination and in response to an outstanding Office Action (Final Rejection) dated July 5, 2007, the shortened statutory period for response having expired on October 5, 2007. Accordingly, a petition for an extension of time, and associated fee is included.

I. Status of the Claims

Please cancel claims 1-11, 16, 20, 25-41, 44-45, 51, 58-86, and 90-92 without prejudice. Please amend claims 12, 21, 22, 23, 24, 42, 52, 53, 54 and 87, as indicated above. Claims 12-15, 17-19, 21-24, 42, 43, 46-50, 52-57 and 87-89 are now pending in the application. Pending claims 12, 21, 22, 23, 24, 42, 52, 53, 54 and 87 are independent claims.

Applicants acknowledge the Examiner's citation of statutory authority as a basis for claim rejections.

II. Rejections under 35 U.S.C. § 103

The Examiner has rejected claims 12-15, 17-24, 42, 44-48, and 54-57 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,173,270 to *Cristofich*, what the Examiner characterizes as applicant's admitted prior art (AAPA) and a speech by SEC Commissioner Glassman ("Glassman"). The Examiner has rejected claims 16, 43 and 49 under 35 U.S.C. § 103(a) as unpatentable over *Cristofich*, what is characterized as AAPA, *Glassman* and further in view of U.S. Patent Publication No. 2001/0044767 to *Madoff*. Claim 50 is rejected under 35 U.S.C. § 103(a) as unpatentable over *Cristofich*, what is characterized as AAPA, *Glassman* and further in view of U.S. Patent No. 6,519,574 to *Wilton*. Finally, claims 87-89 are rejected under 35 U.S.C. § 103(a) as unpatentable over *Cristofich*, what is characterized as AAPA and further in view of Hasbrouck, Sofianos and Sosebee ("Hasbrouck").

Applicants respectfully traverse the rejections. As below, applicants submit that even in combination none of the cited references disclose all of the claim requirements in the original claims, and further what the Examiner characterizes as AAPA is not admitted prior art. However, applicants have amended the claims to more clearly describe the claimed invention, and thereby advance the application to allowance.

“Applicants Admitted Prior Art”

Applicant re-states and repeats the arguments from the earlier response with respect to what the Examiner has characterized as applicants’ admitted prior art. First, and as the Examiner has acknowledged, *Cristofich* fails to disclose or suggest a number of the elements of the claims. To supply the missing claim limitations, the Examiner relies almost entirely on what is characterized as applicants admitted prior art (AAPA). The parts in the specification of the instant invention that the Examiner relies on as AAPA are found on pages 1 and 2 under a section entitled “Description of the related art.” However, the Examiner has ignored Applicant’s express disclaimer of any such description as prior art, (see page 2, lines 7-8). The Examiner is improperly using hindsight to construction the claims with a map that is based on the applicant’s specification. Use of hindsight is improper and is not allowed. Further, because there is no such admitted prior art, it is improper for the Examiner to rely on applicants’ own specification as prior art in order to reject the pending claims. Withdrawal of the rejections based on what is characterized as AAPA is requested at least for this reason alone.

The rejections under 35 U.S.C. § 103 are also improper because even if combined, the cited references and what is characterized as AAPA fail to disclose, teach or suggest all of the requirements of the claims.

All of the independent claims, and therefore all of the claims that depend

respectively therefrom have been amended to further recite determining a parity divisor, and automatically allocating shares of the automatic execution among contra parties according to the parity divisor. The amendments do not present any new matter and support for the amendments is found in the specification, such as in the paragraph beginning at page 9, line 20 through page 10, line 6. Applicants respectfully submit that none of the cited references disclose these additional steps and therefore all of the claims are allowable over the cited art. Withdrawal of the rejections is respectfully requested.

III. Request for Reconsideration

Applicants respectfully submit that the claims of this application are in condition for allowance. Accordingly, reconsideration of the rejection and allowance is requested. If a conference would assist in placing this application in better condition for allowance, the undersigned would appreciate a telephone call at the number indicated.

Respectfully submitted,
Milbank, Tweed, Hadley & McCloy LLP



Chris L. Holm
Reg. No.: 39,227

January 7, 2008

Milbank Tweed Hadley & McCloy LLP
1 Chase Manhattan Plaza
New York, NY 10005
(212) 530-5000 / (212) 530-5219 (facsimile)

LA1 : #6370010